

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/627,733	Applicant(s) IWASAKI, JUN	
	Examiner Farid Homayounmehr	Art Unit 2139	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1,3-7,9-13,15,16 and 18-20.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/Matthew Heneghan/
 Primary Examiner, Art Unit 2139

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues: "Timmer, however, fails to teach or suggest that data is stored on the host as metadata, whatsoever." It appears that the emphasis is on the word "metadata". However, paragraph [0030] of applicant's Specification describes metadata as follows:

"Metadata" described here refers to information in the form of metadata, equivalent to a log stating that a user carrying an information communication device visits a place and what the place is. Metadata is sent out from transmitters installed here and there, for example, street corners and movie theaters, in the real world.

Therefore, metadata is actually the log showing places visited by a user. This feature is also stated in the claim, and the associated rejection clearly shows that prior art teaches a log including information about places traveled by a user. Accordingly, Timmer teaches data stored as metadata.

Applicant further argues: "Timmer, however, fails to teach or suggest that any of the stored data is metadata, whatsoever. Further, Timmer describes that "MYTRAVELBOOK" is used as a "planning guide" to plan a trip, which has not yet occurred, and is not a log providing information on locations visited by a user."

However, as discussed above, Timmer teaches metadata as defined by applicant's Specification. Further, Timmer paragraph 31 indicates that: "The travel planning guide becomes a scrapbook by the end of the trip!" The paragraph also shows that it could be shared with other travelers making similar trips. Therefore, the travel planning guide logs all the information (such as user's comments as shown in paragraph 31), and it remains saved after the trip is completed, such that it may be shared with other travelers.

Applicant further argues relative to the cited reference Shurts teaching of partitioning and supplying the metadata based on the matching level and category of the metadata supplied by the user. Applicant specifically argues: "Such a process of partitioning a storage unit and storing metadata in a corresponding partition of memory by matching the metadata to a category predetermined to a user, is in no way analogous to using a "dominance" level to determine if a database subject is permitted to access an object as described by Shurts." However, Shurts clearly teaches data access control by matching the security level and category assigned to the data. Shurts specifically defines security levels and categories in col. 4, line 55 to col. 5, line 51. Security levels and categories are particularly defined in col. 5 lines 14-20. Therefore, in Shurts system, each data object receives a label (level and/or category), which is used to determine if access to data object is allowed or not. In enforcing access control using security levels and categories, Shurts teaches partitioning and supplying data based on assigned security level and category.

Based on the discussion above, applicant's argument is non persuasive, and the combination of Timmer and Shurts makes all features of the claimed invention obvious.